

Filed by the Board of Professional  
Engineers and Land Surveyors on  
Date 1/4/08

ANNE MILGRAM  
ATTORNEY GENERAL OF NEW JERSEY  
Division of Law, 5th Floor  
124 Halsey Street  
P.O. Box 45029  
Newark, NJ 07101  
Attorney for the New Jersey State Board  
of Professional Engineers and Land Surveyors

By: B. Michelle Albertson  
Deputy Attorney General  
Tel. (973) 648-2975

STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
BOARD OF PROFESSIONAL ENGINEERS  
AND LAND SURVEYORS

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IN THE MATTER OF THE LICENSE OF	:	
	:	Administrative Action
MARK MARTINS, P.E./P.L.S.	:	
License No. 24GB03585800	:	CONSENT ORDER
	:	
TO PRACTICE PROFESSIONAL	:	
ENGINEERING IN THE STATE OF	:	
NEW JERSEY	:	

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**THIS MATTER** was opened to the New Jersey State Board of Professional Engineers and Land Surveyors ("Board") upon receipt of a complaint filed by Marya T. Coburn ("Complainant") against Mark Martins, P.E. ("Respondent"). More specifically, Complainant

alleges that Respondent engaged in professional misconduct in connection with a retaining wall located on Complainant's property in Englewood Cliffs, New Jersey.

Evidence and testimony reveal that Respondent utilized a stock plan for a retaining wall provided by a vendor, the design of which was not performed under his supervision. In preparation of his construction plan for the retaining wall, Respondent admittedly did not visit the Complainant's property and inspect the existing site conditions; did not perform an appropriate soil analysis or evaluate the underlying soil characteristics; and did not perform structural stability calculations to determine whether the plan was adequate for its intended use on this site. Rather, Respondent stated that he has previously utilized this stock plan in the area without a problem and, therefore, it was unnecessary to inspect existing conditions at the Complainant's property or perform an engineering design on the retaining wall.

Eventually, the wall collapsed. Respondent argues, however, that Complainant hired another engineer to inspect the wall, due to the Complainant's perception that the wall was leaning, and it collapsed as a result of the engineer's investigations, including excavation around the wall. The Complainant's engineer, however, determined that the wall was unstable. Thereafter, the Complainant hired another engineer to further evaluate the condition of the wall, who also concluded that the wall was unstable.

Finally, Respondent certified, in writing, that the retaining wall was built using sound engineering and construction practices and that it was properly stabilized and adequate for its intended purposes. Rather, evidence reveals that if Respondent had performed a proper site investigation, then he would have determined that the wall had been constructed using materials that were not specified; that his assumption that the wall was constructed in accordance with his plan was incorrect; and that the wall was not properly stabilized.

Accordingly, as a result of the foregoing, the Board has determined that Respondent's acts constitute a violation of N.J.S.A. 45:1-21(e) and N.J.A.C. 13:40-3.5(a)(2) in that he engaged in professional misconduct by signing and sealing a plan for a retaining wall in a manner not in conformity with accepted standards, as well as N.J.S.A. 45:1-21(b) in that he misrepresented that the retaining wall was properly constructed in accordance with sound engineering and construction practice, properly stabilized and adequate for its intended purpose.

**IT NOW APPEARING** that the parties wish to resolve this matter without recourse to formal proceedings; and that the Respondent hereby waives any right to a hearing in this matter; and the Board finding the within Order adequately protects the public's health, safety and welfare; and for good cause shown;

IT IS ON THIS 4th day of JANUARY, 2008, ORDERED AND AGREED as follows:

1. Respondent's license to practice professional engineering in the State of New Jersey shall be, and hereby is, placed on probation for a period of one (1) year;

2. Respondent agrees that in the event he violates any provision of this Consent Order, or is determined to be in violation of any statute and/or regulation which the Board administers during the probationary period, then Respondent's licenses to practice professional engineering in the State of New Jersey shall be automatically suspended without a hearing, in addition to any other limitations or restrictions as the Board deems appropriate. Additionally, Respondent has an affirmative duty to immediately inform the Board in writing of any potential or actual violations. Within five (5) days of notification of the suspension, Respondent may seek a hearing by written application to the Board limited to the sole issue of violation of this Consent Order;

3. Respondent shall immediately pay a civil penalty of \$3,000.00 (Three Thousand Dollars and 00/100). Payment shall be made by certified check or money order payable to the "State of New Jersey" and forwarded to Arthur Russo, Executive Director, State Board of Professional Engineers & Land Surveyors, 124 Halsey Street, 3<sup>rd</sup> Floor, Newark, New Jersey 07102; and

4. Respondent shall immediately pay investigative costs of \$223.25 (Two Hundred Twenty Three Dollars and 25/100). Payment shall be made by certified check or money order payable to the "State of New Jersey" and forwarded to Arthur Russo, Executive Director, State Board of Professional Engineers & Land Surveyors, 124 Halsey Street, 3<sup>rd</sup> Floor, Newark, New Jersey 07102.

NEW JERSEY STATE BOARD OF PROFESSIONAL  
ENGINEERS AND LAND SURVEYORS

By: Michael Angeline  
MICHAEL ANGELINE  
Board President

I have read and I understand  
this Consent Order and agree to be  
bound by its terms. I further  
hereby consent to the entry of  
this Consent Order.

Mark Martins  
MARK MARTINS, P.E./P.L.S.